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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,049	06/15/2005	Ulf Samuelsson	P/1228-200	2220
2352 7590 12/28/2006 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			EXAMINER NGUYEN, XUAN LAN T	
			ART UNIT 3683	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/28/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/535,049

Applicant(s)

SAMUELSSON, ULF

Examiner

Lan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/13/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application
- ☐ Other: ____

DETAILED ACTION

Information Disclosure Statement

1. The Search Report listed on form PTO-1449 has been lined out since such Report is not considered as a proper prior art document; and would not be printed on the face of the patent should the instant application matures into a patent. The Report has been considered during the examination of the application. The Examiner appreciates the submission of the Report.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed "U-shaped cross section" in claim 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In general, the claimed features are not consistently recited in the claims, which introduce indefiniteness to the claims; for example, "protective shield, protective plate, the plate, fastening brackets, fastening bracket portions".
- Claim 11 improperly depends on itself. Claim 11 is not further treated.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Borlinghaus et al. (EP 1191245 A2).

Re: claim 1, Borlinghaus shows a disc brake, as in the present invention, comprising: a disc brake including a protective shield, a wheelshaft 6, a brake disc 2, brake yoke 3 with a pair of supports 4, protective shield 8 as claimed; a protective plate 11, 15, a fastening bracket 14 to be fastened to the brake supports at 12 wherein the protective plate and the fastening bracket are separate elements which are united with each other via connecting portion 9.

Re: claim 2, figure 3 shows the protective shield to be U-shaped. Please see the drawing objection above. Applicant's drawings do not show a U-shaped cross section but shows a U-shaped protective shield 9 in figure 2. Claim 2 is being treated as claiming a U-shape protective shield.

Re: claim 3, figure 3 shows the fastening bracket portion 14 are divided into two separate fastening brackets, one on the left and one on the right.

Re: claim 10, figure 1 shows supports 4 having fastening eyes at 12.

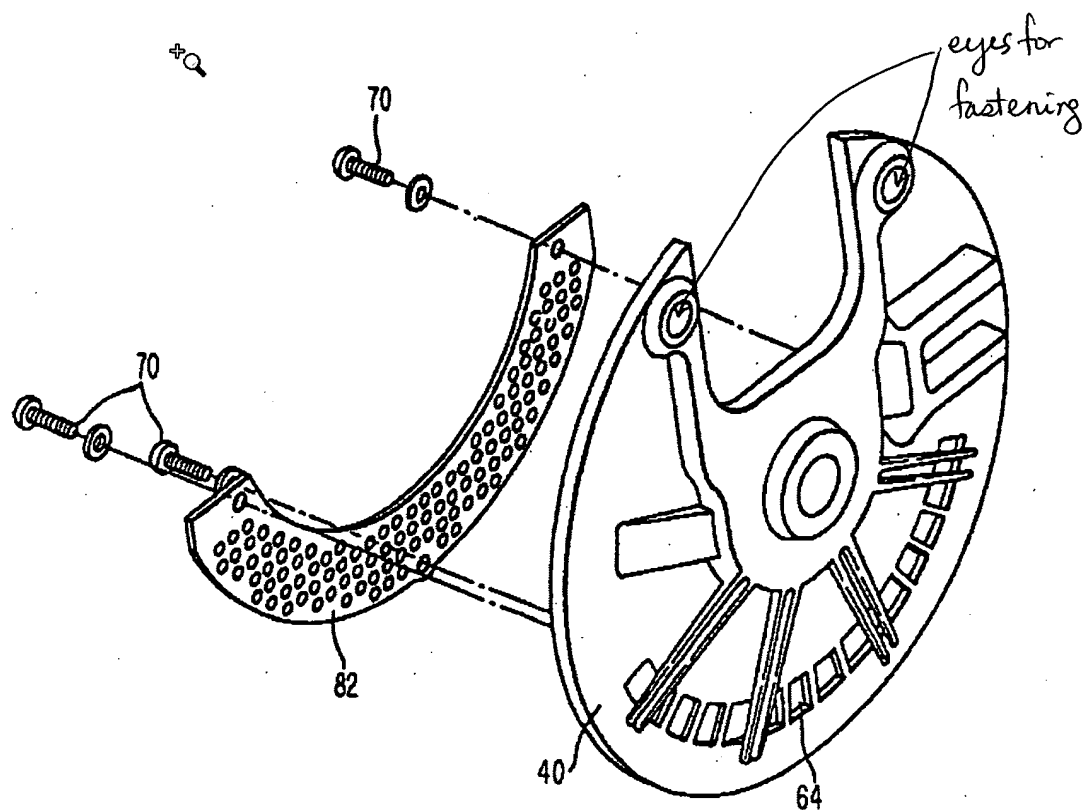
7. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawaguchi (USP 4,596,312).

Re: claim 1, Kawaguchi shows a disc brake in figures 16-18, as in the present invention, comprising: a disc brake including a protective shield, a wheelshaft 12, a brake disc 24, brake yoke 32 with a pair of supports, protective shield 40, 82, 84 as

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claimed; a protective plate 82 a fastening bracket 40 to be fastened to the brake supports as marked below, wherein the protective plate and the fastening bracket are separate elements which are united with each other via bolts 70.

Re: claim 3, figure 17 shows the fastening bracket portion 40 are divided into two separate fastening brackets, one on top and one on bottom.



Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

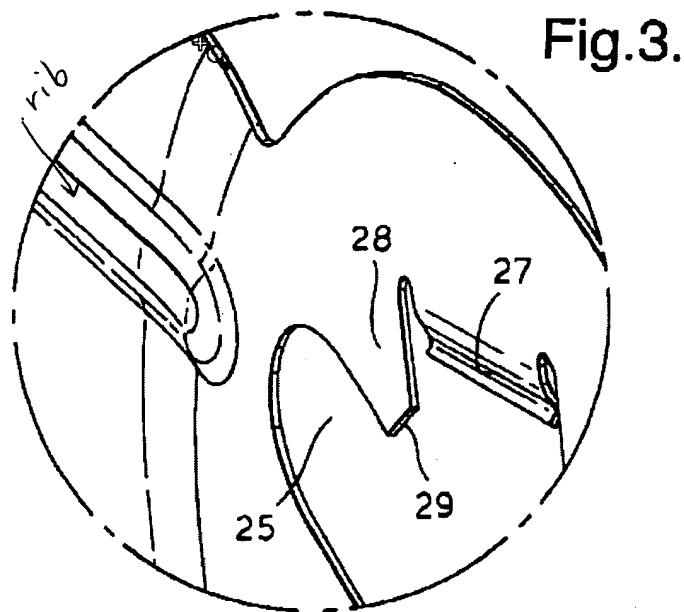
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaguchi (USP 4,596,312).

Kawaguchi shows the protective plate 82 to be bolted to bracket 40 while claim 9 claims rivets. It is well settled that bolts, rivets, welding, etc. are considered to be equivalences in the art of fastening and to use one or the other to fasten multiple elements together is within the routine skill of one of ordinary skill in the art.

10. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borlinghaus et al. (EP 1191245 A2) in view of Frouin (USP 6,626,272).

Borlinghaus' brake as rejected, in claim 1, lacks the sheet metal and reinforcing ribs. Frouin teaches a brake device with a protective shield wherein the shield is made of sheet metal, col. 3, lines 21-24 and the ribs as marked below. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Borlinghaus' protective shield to be made of sheet metal and reinforcing ribs such as taught by Frouin in order to provide a strong yet light weight material for the shield to protect the brake disc from the elements.



11. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borlinghaus et al. (EP 1191245 A2) in view of Ishikawa et al. (USP 4,207,971).

Borlinghaus's brake, as rejected in claim 1, lacks a protective housing as claimed. Ishikawa teaches a protective housing 16 which is made of pressed sheet metal, column 2, line 65 to column 3, line 3 cooperatively attached to dust cover 14 to protect the disc 6; wherein the protective housing comprises apertures 19 to further protecting the disc 6 from rusting. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Borlinghaus' brake to comprise a protective housing made of sheet metal having apertures such as taught by Ishikawa in order to protect the brake disc from water and rust.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mouza, Bubnash et al., Pauwels et al., Ito, Nishiyama et al., Katagiri et al., Oka et al., Demetriou et al., Reuber et al. and Marquardt et al. are cited for other disc brakes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Lan Nguyen
Primary Examiner
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Lan Nguyen 12/13/06